

United States District Court  
Western District of New York



LeRon Bailey

Plaintiff,

Civil Rights

First - Amend complaint

Pursuant 42 U.S.C. § 1983

Case No. 23-CV-822

- A gain of -

Superintendent J. Wolcott

In her individual capacities;

P.A. Ms. West

In her individual capacities;

Dept. of Security E. Raczkowski

In his individual capacities;

(and)

Officers John Doe's

In their individual capacities;

JURISDICTION AND VENUE

1.) This is an action of civil, seeking relief and/or damages to defend and protect the rights guaranteed by the constitution of The United States. This action is brought pursuant to 42 U.S.C. § 1983, along with 12101 - 200. This court has jurisdiction over the action pursuant to 28 U.S.C. § 1331, 1343 (4) and 2201.

Parties to This Action:

## 2.) Plaintiff's information:

Name LeRon Bailey, 15 B 1705

Present place of incarceration:

Wende ~~Attica~~ Correctional Facility

3040 Wende Rd. ~~634 Exchange Street~~

Alden, N.Y. 14004-1157 ~~Attica, NY 14011-0144~~

## 3.) Defendant's information:

Defendant No. 1: J Wolcott

Official position: Superintendent

Address: Attica C.F.

Defendant No. 2: Ms. West

Official position: P.A. Nurse Admin.

Address: Attica C.F.

Defendant No 3: G. Raczkowski

Official position: Dept. Superintendent for security

Address: Attica C.F.

Defendant No 4: John Doe

Official position: Correctional Officer(s)

Address: Attica C.F.

statement of Claim Relevant to the — Amended  
complaint The ACTION Herein:

- 4) 2 U. S. C. A. § 1983 to obtain relief from deprivation of U.S. constitutions.
- 5.) The United States constitution, along with New York Articles(s), Federal and state laws and statutes, to protect citizens against, deprivations of Government arbitrary powers of unfair and unlawful treatment, to equal and civil rights, were violated when Superintendent J. Wolcott failed to respond back to Plaintiff grievance(s) #s 0364-23 Grievances filed: 5-25-23, (no response) about being too far in galleries which is a life threatening situation due to Plaintiff of history for having seizures also (see attached C.C. letter's Grievance complaint as Exhibit "A")
- 6.) S. D. N. Y. July 13, 2001 (motion to dismiss denied as to prison official who received prisoners grievances denied them)

12) Attica Superintendent J. Wolcott and Deputy Security E. Raczkowski allowed the Administration as well as medical staff to allow the Plaintiff to remain housed in dangerous cell location(s) without emergency call buttons/pads built in walls in closer/front location(s)

## Point 2

Deprivation of the Eight Amendment through that of the Fourteenth Amendment

13.) The United States Eight and Fourteenth Amendment (Amend) as well as New York Article and sections, which all states within the jurisdiction of the United States and its laws are bound to follow, was deprived as the Fourteenth Amendment states: "All persons born or naturalized in the United States subject to the jurisdiction ~~thereof~~ thereof, are citizens of the United States and of the state wherein they reside, state shall make ~~the~~ or enforce any law which shall abridge the privileges or immunities of the citizens of the United States: nor shall any state deprive any person of life, liberty or property without due process of law: nor deny any person within its jurisdiction the equal protection of the law.

14) The United States Supreme Court has held that the due process clauses protection of liberty includes certain privacy related interests, including the individual interest in avoiding disclosure of personal matters [adequate medical treatment and care], when plaintiff sought medical emergency, medical treatment of Attica Facility's employees [J. Wolcott, Nurse West] as both employees continuously denied plaintiff adequate medical treatment for a serious medical need, in Estelle v. Gamble, 429 U.S. 97 S. Ct. 285, 50 L. Ed. 2d 251 (1977). The Supreme Court ruled that "Deliberate Indifference to a serious medical needs of prisoners constitutes the unnecessary and wanton infliction of pain.... Prescribed by the 8th Amendment; Also see Gregg v. Georgia, 428 U.S. 153, 173, 46 S. Ct. 2909, 2925, 49 L. Ed. 2d 859 (1976).

15.) The due process clause of the 14th Amendment has two (2) functions. First, it protects the plaintiff against arbitrary and unfair treatment by state officials. This aspect of the 14th Amendment is known as Substantive Due Process. Substantive Due Process rights were violated when Attica Correctional Facility Superintendent J. Wolcott and Dept. of Security E. Raczkowski, allowed plaintiff to suffer from a serious injury's unbroken nose @ swollen right upper lip (see injury report attached Exhibit "B"). Defendants has failed to act quickly to plaintiff's serious medical need.

Point 3

Deprivation of adequate medical care and treatment deliberate in difference to serious medical need

(b.) Ms. West has since refused to address plant: PP request(s) complaint (via-grievances) about being housed dangerously in cell locations that's way too far back of galleries that's away from help when plant: PP seizures does occur. more than one grievance was filed by plant: PP leading with no results through Atticus ~~Amend~~ Administration and/or medical staff.

17.) The second function of the Due process clause is to ensure that the plant: PP is and was not deprived of life, liberty or property without due process of the law; This aspect of the 14<sup>th</sup> Amendment is known as procedural Due process. The plant: PP under this clause [has] met three requirements of a 14<sup>th</sup> Amendment violation:

First, the plant: PP was deprived of his liberty and adequate medical treatment and care interest, when on June 16<sup>th</sup>, 2023 I suffered from a seizure that lead to plant: PP breaking his nose and swollen right upper lip (see injury report exhibit "B") and plant: PP made complaints to prison staff via grievance committee on why plant: PP should not be located in far cell location(s) due to his medical condition(s).



- 18) The second requirement for procedural due process claim is that the medical staff and Attica's Administration intend(s) to deprive the plaintiff of his liberty and/or life interest, when they failed to acknowledge the seriousness of the history of plaintiff's medical need(s) and failed to accommodate plaintiff's living condition and safety by not requiring to place plaintiff in cell location(s) that has emergency call buttons/pads in cells.
- 19) The third requirement for procedural due process is that the plaintiff was deprived his medical treatment and care, because the plaintiff has been incarcerated in Attica C.F. for over 2 years and still remains located in back cell locations that will take staff and/or medical staff to reach plaintiff during medical emergencies.
- 20) Another violation of the 14<sup>th</sup> Amendment and/or deprivation of the plaintiff's right was "[equal protection clause]" The equal protection clause prohibits discrimination based upon the plaintiff's color, race, ethnicity, creed as the plaintiff is a man of color. During the plaintiff's time of incarceration in Attica C.F. has had more seizures than previous incarceration at Great Meadows C.F.
- 21) Since prisoners cannot obtain their own medical services, the constitution requires prison authorities, to provide them with "reasonable adequate medical care and treatment" courts have defined "adequate medical services" service at a level reasonably acceptable with prudent professional standards, and at a level of health services reasonable designed to meet routine and emergency medical, dental and psychological or psychiatric care. See Tillery v. Owens, 719 F. supp at 1301; Accord, Rambo v. Lamm 639 F.2d 559, 574 (10<sup>th</sup> Cir. 1987)

22.) The Supreme Court has stated that deliberate indifference to serious medical needs of a prisoner constitutes the unnecessary and wanton infliction of pain proscribed by the 8<sup>th</sup> Amendment as follows:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Courts have also applied the deliberate indifference standard to pre-trial detainees under the Due Process clause.

23.) Defendant(s) superintendent J Wolcott, Dept. of security E. Racz, Kusk, P.A. nurse west, and officer Pice(s) John Doe, allowed plaintiff to suffer from his injuries on the morning of June 18<sup>th</sup>, 2023 while housed in #32 cell on C-Block company approx 11:30/40. All Defendant(s) were deliberately indifferent to the plaintiff's serious medical condition/need(s) and given that Atticus Admin. as well as medical staff were fully aware of plaintiff's medical condition(s) when it was requested (via grievance) to be moved up closer with help on gallery(s).

24.) Courts have held that repeated examples of negligence and negligent acts, which disclose a pattern of conduct by the prison medical staff may add up to deliberate indifference. See Langley v. Coughlin, 715 F. Supp. 552, 541 S.D.N.Y. (1988.)



Thus allegation does states a claim under calon and J. wolcott and ms. west must remain as dependants.

Pleading or Relief sought By.

The plaintiff PP

28.) Plaintiff PP seeks a jury trial for punitive damages, injunctive declaratory and monetary relief in the amount of \$4,000,000.00 from superintendent J. Wolcott and Dept. of Security E. Raczkowski and P.A. West who failed to adequately supervise Altra under her control

# APP: d'vair o P service

- against -

The state o P New York  
county o P Erie

APP: d'vair o P service  
Claim No. 23-CV-822

IMd. NO. 01140-2013

Le Ron Bailey, being duly sworn, deposes and says: I am over  
the age o P 18 and reside at Wende corr. fac. on 4-17-24  
I served within Amendment complaint upon the Attorney General o P the state o P  
New York by certified mail No. \_\_\_\_\_, return receipt requested at the  
following address:

Department o P Law Capitol  
Building Albany, NY 12224

said address being the address designated by the Attorney General for the purpose  
by depositing a true copy o P the within in a post paid properly addressed wrapper  
in an official depository under the exclusive care and custody o P the United-  
States postal service within the state o P New York

Le Ron Bailey  
Pro-se

Sworn to before me this 17 day o P April,  
2024

Zachary Griffey  
Notary Public

**ZECHARIAH GRIFFEY**  
Notary Public, State of New York  
Qualified in Erie Co. No. 01GR0018569  
My Commission Expires December 12, 2027

WENDE CORRECTIONAL FACILITY  
3040 WENDE RD, PO BOX 1187  
ALDEN, NY 14004-1187

LeRon Bailey  
15B1705

INMATE NAME/NUMBER

\$11.87- received

76:

united states courthouse

2 Niagara <sup>sq</sup>

Bldg. N.Y. 14202

Attn: Court clerk



23-W-822

LEGAL MAIL

WENDE  
CORRECTIONAL FACILITY



NEOPOST  
05/21/2024  
US POSTAGE \$001.8  
ZIP 1400  
041M11281

